

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, JULY 23, 2001  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:08 p.m.

Mayor Murphy expressed that San Diego is very fortunate this week to host the 94-foot Italian Navy ketch, the "Orsa Maggiore," and welcomed to San Diego and the City Council the ship's Commanding Officer, Captain Daniele Falcinelli; the Consul General of Italy from Los Angeles, The Honorable Massimo Roscigno; and our Vice Consul of Italy here in San Diego, the Honorable Maurizia Cantoni.

The meeting was recessed by Mayor Murphy at 3:52 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 4:03 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:48 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:55 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 6:16 p.m.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

ITEM-10: INVOCATION

Invocation was given by C. Dennis Williams of the Bethel A.M.E. Church.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

ITEM-30: Lesbian and Gay Pride Week.

**MAYOR MURPHY AND COUNCILMEMBER ATKINS'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-1577) ADOPTED AS RESOLUTION R-295165

Recognizing the many civic contributions of the lesbian, gay, bisexual, and transgender community in San Diego, and encouraging all people to share in the pride of our City's diverse citizenry;

Proclaiming the week of July 23 to July 29, 2001, to be "Lesbian and Gay Pride Week" in the City of San Diego.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A216-320.)

MOTION BY ATKINS TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31:      Talk with Kids Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-95) ADOPTED AS RESOLUTION R-295166

Recognizing the outstanding contributions Time Warner Cable has made to strengthen families and improve the lives of all San Diegans and proclaiming July 23, 2001 to be "Talk with Kids Day" in San Diego.

**SUPPORTING INFORMATION:**

Talking with Kids is an on-going campaign that promotes the availability of free materials developed by the Kaiser Family Foundation, Children Now, and Nickelodeon. Time Warner Cable and San Diego area public officials have teamed together to produce a series of public service announcements on Talking with Kids. Today's kids are growing up faster, see more violent provocative images, and have access to more information than earlier generations. Experts suggest the best time to start talking with kids about tough issues like drugs, sex and violence is during the pre-teen years. In order to effectively communicate with their kids, parents need to understand the issues that kids are facing. Surveys show that parents and kids

aren't communicating as well or as often as kids might like, and kids aren't always getting the message about tough issues. Reading materials, including the brochure "Talking with Kids" about tough issues, will help get the dialogue started and provide answers kids need. We can learn from kids as well. Therefore, this action proclaims July 23, 2001 to be "Talk with Kids Day."

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A114-215.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Stevens. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: California Firefighters Summer Olympics Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-118) ADOPTED AS RESOLUTION R-295167

Recognizing the San Diego Fire and Life Safety Services Department and Local 145 for hosting the California Firefighters Summer Olympics, and proclaiming July 23, 2001 to be "California Firefighters Summer Olympics Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A321-435.)

MOTION BY FRYE TO ADOPT. Second by Stevens. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-33: Ronald A. Reina Day.

(Continued from the meetings of June 26, 2001, Item 32 and July 9, 2001, Item 32, last continued at Councilmember Madaffer's request, to allow Mr. Reina to be present.)

**COUNCILMEMBER MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-1650) ADOPTED AS RESOLUTION R-295168

Recognizing the many accomplishments and dedication of Ron Reina and proclaiming July 23, 2001 to be "Ronald A. Reina Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A436-517.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-34: BIO2001 Task Force Day.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-123) ADOPTED AS RESOLUTION R-295169

Proclaiming July 23, 2001, to be "BIO2001 Task Force Day" in recognition and appreciation to the countless public and private agencies involved in the security strategy for BIO2001.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A030-113.)



MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**NON-AGENDA COMMENT:**

**PUBLIC COMMENT-1:**

Comment by Don Stillwell regarding scheduling of City Council Meetings complying with the Municipal Code.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B174-212.)

**PUBLIC COMMENT-2:**

Comment by Jim Varnadore, urging City Council Members to not put individual interests ahead of the public good, and to return redistricting to the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B213-247.)

**PUBLIC COMMENT-3:**

Mark Conlan commented that Non-Agenda Comment should be placed first on the City Council meeting agenda.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B248-288.)

**PUBLIC COMMENT-4: REFERRED TO THE CITY MANAGER**

Comment by Gary Glover regarding non-compliance by billboard companies advertising alcohol, that the remaining six of the 23 who have not complied will be notified again.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B289-325.)

**PUBLIC COMMENT-5:**

Comment by Ethel Murphy wherein she stated that the long-term rental agreement with De Anza residents has holes in it.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B326-357.)

**PUBLIC COMMENT-6: REFERRED TO THE CITY MANAGER**

Comment by Linda Smith wherein she noted that it is unsafe to cross streets at various intersections, and that she feels mentally and emotionally challenged to do so.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B358-429.)

**PUBLIC COMMENT-7:**

Comment by Leo Long regarding public lands and that NTC is the latest land squat.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B430-479.)

PUBLIC COMMENT-8:

Comment by Glen MacNary regarding having a Building Plan for the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B480-507.)

PUBLIC COMMENT-9:

Comment by Barbara MacKenzie wherein she provided the Council with the written comments by Council Members from a previous meeting pertaining to medical marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B508-539.)

PUBLIC COMMENT-10:

Comment by Dan Beeman regarding beverage-recycling containers, district boundaries, public comment being heard at the beginning of City Council meetings, and correspondence from Council Members to the public.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B540-619.)

**COUNCIL COMMENT:**

**COUNCIL COMMENT-1:**

Council Member Inzunza commented that to be more fair, Non-Agenda Public Comment should be placed at the end of the City Council meeting agendas.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B620-C029.)

**COUNCIL COMMENT-2:**

Council Member Maienschein noted that we are making progress on the vernal pools on Route 52. He also commented on the awards that Gold Mine Natural Foods Company has been granted for their conservation efforts.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C030-056.)

**COUNCIL COMMENT-3:**

Council Member Peters acknowledged the hard work of his former associate Todd Phillips.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C057-063.)

**COUNCIL COMMENT-4:**

Council Member Atkins stated that Proposition 215 has been taken very seriously and that there is a fine committee working on the issue of medical use of marijuana.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C064-080.)

**COUNCIL COMMENT-5:**

Council Member Madaffer commented on how prices of gasoline vary around the City and that it is hard to understand why there are so many price differences, and that we should try to buy the cheapest gas.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C081-109.)

**COUNCIL COMMENT-6:**

Council Member Frye commented that the item of Council Comments should be placed at the end of meeting agendas.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C110-125.)

\* ITEM-50: Amending the San Diego Municipal Code Section 24.1202 - Post Retirement Health Benefits.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 7/9/2001. (Council voted 9-0):

(O-2001-169 Cor. Copy) ADOPTED AS ORDINANCE O-18962 (New Series)

Amending Chapter II, Article 4, Division 12, of the San Diego Municipal Code, by amending Section 24.1202, relating to the Retirement System.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-51: City of San Diego/Len-Greystone Torrey Highlands, LLC, Vernal Pool Preserve.

(Torrey Highlands Community Area. District-1.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 7/9/2001. (Council voted 9-0):

(O-2001-168 Cor. Copy) ADOPTED AS ORDINANCE O-18963 (New Series)

Authorizing the City Manager to execute an Agreement for the Acquisition and Establishment of a Joint Vernal Pool Preserve (Agreement) with Len-Greystone Torrey Highlands, LLC, (Greystone), for the joint vernal pool preserve (Project);

Accepting \$107,083 from Greystone for the Project and authorizing the City Auditor and Comptroller to establish a separate interest bearing account (Fund 39226);

Authorizing the City Auditor and Comptroller to amend the Capital Improvement Program (CIP) budget by increasing appropriations in the amount of \$107,083 to the Fiscal Year 2001 CIP to be utilized for the Project, CIP-52-463.0;

Authorizing the expenditure of an amount not to exceed \$145,653 from Fund 10515, for the acquisition of property rights, labor, title escrow, and miscellaneous costs related to the Project, CIP-52-463.0;

Authorizing the City Manager to execute an Agreement with EDAW, Inc., for Consulting Services for providing professional consulting services to the City for the Project;

Authorizing the expenditure of an amount not to exceed \$167,796 from Fund 10515 for the purpose of providing funds for the professional consulting services agreement for the Project, CIP-52-463.0;

Authorizing the City Manager to execute, on behalf of the City of San Diego, a Conservation Easement Deed to the United States of America, in favor of the U.S. Army Corps of Engineers, or agent approved by the U.S. Army Corps of Engineers, describing the property reserved for the Vernal Pool Preserve, if necessary;

Authorizing the expenditure of an amount not to exceed \$107,083 from Fund 39226 for the purpose of providing funds for the Project, CIP-52-463.0, upon certification by the Auditor and Comptroller of funds being available.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-52: Ban of Caulerpa Taxifolia ("Killer Algae").

(See Councilmember Peters' 2/6/2001 memo; AB1334; Destructive Seaweed Treatens California's Coastline; Facts about Caulerpa Taxifolia.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2001-171) INTRODUCED, TO BE ADOPTED ON AUGUST 6, 2001

Introduction of an Ordinance amending Chapter VI, Article 3, of the San Diego Municipal Code by adding Division 15, Sections 63.1501 through 63.1505 relating to Possession, Sale, and Disposal of the Genus Caulerpa, also known as "Killer Algae."

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On April 2, 2001, NR&C voted 3 to 0 to direct the City Attorney to prepare an ordinance for consideration by the City Council to ban the sale and possession of all plants in the genus Caulerpa, as is stated in Assembly Bill AB-1334. A violation of this ban will be a \$250 misdemeanor penalty for the possession and sale of the plant, which could be waived if the owner properly disposes of the plant.

If the City Council approves the ordinance, the City Manager should notify all pet stores and aquarium stores of the new ordinance, and the proper disposal methods for plants in the genus Caulerpa. In addition, educational materials should be posted on the City's website for the public.

It is recommended that the City of San Diego express strong support for the passage of AB-1334 through its Intergovernmental Relations Department, while moving forward with its own local program in order to avoid the disastrous effects of Caulerpa Taxifolia and other plants within the genus Caulerpa. (Councilmembers Peters, Madaffer and Inzunza voted yea. Councilmember Wear not present.)

**CITY MANAGER SUPPORTING INFORMATION:**

On April 2, 2001, the Regional Water Quality Control Board presented information on Caulerpa Taxifolia infestations to the Natural Resources & Culture (NR&C) Committee. The NR&C



Committee approved Councilmember Scott Peters's motion to recommend the City Council ban the sale and possession of all the plants in the genus Caulerpa (also known as "Killer Algae") within the City of San Diego. The ordinance would compliment Assembly Bill AB-1334 (Harmon/Alpert) which would ban the sale and possession of the genus Caulerpa statewide. It was recommended that a violation of this ban be a \$250 misdemeanor penalty for the possession and sale of the plant, which could be waived if the owner properly disposes of the plant.

If the City Council approves the ordinance, the City Manager will make a good faith effort to identify and notify all pet and aquarium stores in the city of the new ordinance, and proper disposal methods for plants in the genus Caulerpa. In addition, educational materials will be posted on the City's website for the public.

The NR&C Committee recommended that the City of San Diego express strong support for the passage of Assembly Bill AB-1334 through its Intergovernmental Relations Department, while moving forward with its own local program in order to avoid the disastrous effects of Caulerpa Taxifolia and other plants within the genus Caulerpa.

The NR&C Committee voted 3-0 in favor.

**FISCAL IMPACT:**

For Fiscal Year 2002, the estimated cost is \$10,000 - \$12,000. Full impact is unknown at this time, however, responding to an estimated 10-12 infractions annually would result in an estimated cost of \$10,000 - \$12,000 annually. Existing staff will be utilized in responding to reported infractions.

Loveland/Gardner/MS

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: B060-127.)

MOTION BY PETERS TO INTRODUCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-100: Two actions related to Advertise Pump Stations 77A and 77B and Amend Contract with Brown and Caldwell.

(See City Manager Report CMR-01-120; Karen Heumann's letter dated 4/26/2001, Equal Opportunity Contracting Program Evaluation; Camino del Norte Sound and Safety Problems; Proposed Brine Diversion System Alternatives. Rancho Bernardo, San Pasqual and Lake Hodges Community Areas. District-5.)

**TODAY'S ACTIONS ARE:**

Adoption of the following resolutions:

Subitem-A: (R-2002-84) ADOPTED AS RESOLUTION R-295170

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of the Rehabilitation of Sewer Pump Stations 77A and 77B on Work Order No. 173912;

Authorizing the City Manager to execute a contract with the lowest responsible bidder. (BID-K01114)

Subitem-B: (R-2002-85) ADOPTED AS RESOLUTION R-295171

Authorizing the City Manager to execute a third amendment to the agreement of July 14, 1997, with Brown and Caldwell, Inc. for design services in connection with a brine line to the Penasquitos Pump Station and engineering services in connection with Pump Stations 77A and 77B;

Authorizing the expenditure of an amount not to exceed \$1,497,508 to be expended as follows: \$1,400,985 from Fund No. 41506, CIP-46-191.0, Brine Management Force Main and Pump Station; and \$96,523 from Fund No. 41506, CIP-46-106.0, Annual Allocation - Sewer Pump Station Restoration.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 6/13/2001, NR&C voted 4 to 0 to approve the City Manager's recommendation and refer the issue of a permanent sound wall back to the City Manager and City Attorney to review feasibility and policy issues. In addition, the City Manager should review potential financial charges to area corporations utilizing the new system in relation to their discharge capacity into the system. (Councilmembers Wear, Frye, Madaffer and Inzunza voted yea. Councilmember Peters not present.)

Aud. Cert. 2200013.

FILE LOCATION: Subitem A: CONT - Orion Construction, W.O. 173912;  
Subitem B: MEET

COUNCIL ACTION: (Tape location: B036-059.)

COSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-101: Consultant Agreement with Richard Brady and Associates for Barrett, Morena, and Lower Otay Outlet Towers Projects.

(See memorandum from Larry Gardner dated 6/8/2001. Lower Otay Reservoir, Barrett Reservoir, and Morena Reservoir.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2002-68) ADOPTED AS RESOLUTION R-295172

Authorizing the City Manager to execute an agreement with Richard Brady & Associates, to provide design and construction support services for the Barrett, Morena, and Lower Otay Outlet Towers Project, in an amount not to exceed \$1,594,000 with \$1,083,920 to be expended in Fiscal Year 2002 and the remaining \$510,080 in future fiscal years;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$586,944 from Water Fund 41500, CIP-73-317.0, Barrett Reservoir Outlet Tower Upgrade, for the purposes of executing this agreement and related in-house engineering costs, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for such expenditure are deposited in the City Treasury;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$646,944 from Water Fund 41500, CIP-73-321.0, Morena Reservoir Outlet

Tower Upgrade, for the purposes of executing this agreement and related in-house engineering costs, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for such expenditure are deposited in the City Treasury;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$660,112 from Water Fund 41500, CIP-73-343.0, Lower Otay Reservoir Emergency Outlet Tower Upgrade, for the purposes of executing this agreement and related in-house engineering costs, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for such expenditure are deposited in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 6/13/2001, NR&C voted 4 to 0 to approve. (Councilmembers Wear, Frye, Madaffer and Inzunza voted yea. Councilmember Peters not present.)

**CITY MANAGER SUPPORTING INFORMATION:**

The Morena, Barrett, and Lower Otay Dams & Outlet Towers were constructed in 1912, 1922, and 1919 respectively. The water from Morena Reservoir goes to Barrett and the water from Barrett Reservoir goes to Lower Otay Reservoir. The raw water storage of Lower Otay Reservoir is important to the City of San Diego's water supply both as emergency raw water storage and as a source of local raw water to the City's Otay Water Treatment Plant. The feed from the Morena Reservoir and Barrett Reservoir Outlet Towers to Lower Otay Reservoir is critical for maintaining acceptable raw water storage levels at Lower Otay Reservoir.

These aging outlet towers do not meet the current seismic codes. The outlet towers internal and external valve and piping systems are severely corroded and in need of replacement. Also, the internal tower conditions are potentially dangerous to operators due to poor ventilation and deteriorated wood platforms. Access to Morena outlet tower is by boat only and therefore is time intensive for operators and maintenance works. The proposed improvement includes: replacement of tower piping, replacing all of the interior and exterior valves, automating all of the valves with electric actuators, enclosing the top operating floor to protect the electrical/control equipment, and adding a 100 foot long, 6 foot wide pedestrian bridge from the

dam to the Morena outlet tower. Additionally, a number of safety improvements are proposed such as replacement of the ladders and safety cages, safety rails around the access hatches, an internal tower ventilation system and replacement of the internal platforms.

The Division of Safety of Dams (DSOD) requires that the City has to be capable of drawing ten percent of Lower Otay's maximum level in ten days. Under existing conditions, it is only possible to draw down ten percent of the maximum level in 31 days. The proposed improvement includes: installation of two eight foot by eight foot sluice gates directly in front of the auxiliary spillway and structural improvements to the outlet tower. The proposed improvements will bring the towers up to Water Department standards, OSHA safety standards and minimize the amount of confined space entry required to operate the tower as well as meeting the DSOD requirement of ten percent draw down. In addition, the rehabilitated Lower Otay Outlet Tower will meet the current seismic codes.

Five engineering firms were interviewed and Richard Brady & Associates (RBA) was determined to be the most qualified for this project. This agreement with RBA will provide design and engineering services during the construction for the refurbishment of the Outlet Towers.

**FISCAL IMPACT:**

Funding for the engineering consultant and related in-house engineering costs in the amount of \$1,383,920 is available for the Water Fund 41500, CIP-73-317.0, CIP-73-321.0, and CIP-73-343.0, Annual Allocation Standpipe and Reservoir Restorations.

Loveland/Gardner/KP

Aud. Cert. 2200028.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-102: Three actions related to Calle Cristobal Maintenance Assessment District.

(#18 Mira Mesa Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-75) ADOPTED AS RESOLUTION R-295173

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-76) ADOPTED AS RESOLUTION R-295174

Approving the City Engineer's report.

Subitem-C: (R-2002-77) ADOPTED AS RESOLUTION R-295175

Approving the Fiscal Year 2002 Budget for the Calle Cristobal Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for the Calle Cristobal Maintenance Assessment District (District). The District was established in 1987 to provide maintenance for street trees and shrubs, landscaped medians, vegetated sound barriers, landscaped right of way, decorative medians and gutter sweeping. The improvements are located along portions of Calle Cristobal, Camino Ruiz and Camino Santa Fe. The District maintains 67,227 square feet of landscaped medians, 93,793 square feet of stamped concrete medians, 364,638 square feet of landscaped right of way and 47,598 linear feet of curbs and gutters. The following FY 2002 proposed budget was approved by the Calle Cristobal Maintenance Assessment District Advisory Committee on May 23, 2001.

<b><u>DESCRIPTION</u></b>	<b><u>Est. Year End</u></b>	
	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$ 77,925.00	\$ 58,968.00
<b>REVENUE:</b>		
Assessments	\$134,746.00	\$159,675.00
Interest	2,702.00	\$ 2,702.00
City Contribution	<u>8,067.00</u>	<u>8,067.00</u>
<b>TOTAL REVENUE</b>	\$145,515.00	\$170,444.00

**EXPENSE:**

Personnel	\$ 15,176.00	\$ 20,352.00
Contractual	90,000.00	90,000.00
Incidental	21,746.00	20,939.00
Utilities	<u>37,550.00</u>	<u>37,550.00</u>
<b>TOTAL EXPENSE</b>	\$164,472.00	\$168,841.00
 <b>ENDING BALANCE</b>	 \$ 59,968.00	 \$ 60,571.00

The District contains a total of 1,582.77 Equivalent Benefit Units (EBU's). Property owners in Zone 1 (1,037.47 EBU's) pay for maintenance of improvements on the major thoroughfare. Property owners in Zones 2 (409.00 EBU's) and Zone 3 (136.30 EBU's) pay for a lesser share of the thoroughfare maintenance and pay for other improvements maintained in their own zones. The Personnel Budget is the same as FY 2001; however it was underspent in FY 2001. The Advisory Committee wanted to fully use the Personnel Budget for increased monitoring of the maintenance contract. To keep a prudent reserve, the Advisory Committee voted to increase the assessment to the maximum allowable, from \$81.24 to \$89.28 per EBU and to also use a 13.0% cumulative CPI-U from the base year of 1997, for a further increase from \$89.28 to \$100.88 per EBU. The proposed assessment for FY 2002 for each zone is \$100.88 per EBU.

**FISCAL IMPACT:**

It is proposed that the City contribute \$8,067 (0.12/sq. ft.) from the Gas Tax Fund for the maintenance of 67,227 sq. ft. of landscaped street medians. This represents the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. All other costs are assessed to the District.

Loveland/McLatchy/SY

**FILE LOCATION:** Subitems A, B, C: STRT-M-405-02 (34)

**COUNCIL ACTION:** (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-103: Three actions related to Carmel Mountain Ranch Maintenance Assessment District.

(#3 Carmel Mountain Ranch Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-78) ADOPTED AS RESOLUTION R-295176

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-79) ADOPTED AS RESOLUTION R-295177

Approving the City Engineer's report.

Subitem-C: (R-2002-80) ADOPTED AS RESOLUTION R-295178

Approving the Fiscal Year 2002 Budget for the Carmel Mountain Ranch Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for Carmel Mountain Ranch Maintenance Assessment District (District). The District was established in October 1985 to provide maintenance for landscaped medians, paved medians, landscaped right-of-ways and sloped areas, curbs and gutters and decorative median lighting. The District maintains 185,054 square feet of landscaped medians, 112,457 square feet of paved medians, 790,176 square feet of landscaped right-of-ways and adjacent areas, 146,156 linear feet of curbs and gutters, 129,667 square feet of landscaped slopes and 103 decorative median light fixtures. The following FY 2002 proposed budget was approved by the Carmel Mountain Ranch Maintenance Assessment District Committee on April 4, 2001.

<b><u>DESCRIPTION</u></b>	<b><u>Est. Year End</u></b>	
	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$ 112,609.00	\$ 110,225.00



**REVENUE:**

Assessments	\$ 237,682.00	\$ 254,239.00
Interest	3,197.00	3,197.00
City Contribution	<u>26,050.00</u>	<u>22,206.00</u>
<b>TOTAL REVENUE</b>	<b>\$ 266,929.00</b>	<b>\$ 279,642.00</b>

**EXPENSE:**

Personnel	\$ 23,402.00	\$ 33,919.00
Contractual	160,000.00	175,000.00
Incidental	51,411.00	52,090.00
Utilities	<u>34,500.00</u>	<u>43,900.00</u>
<b>TOTAL EXPENSE</b>	<b>\$ 269,313.00</b>	<b>\$ 304,909.00</b>

**ENDING BALANCE**            \$ 110,225.00            \$ 84,958.00

The proposed assessment for Fiscal Year 2002 is \$21.16 per Equivalent Benefit Unit (EBU). The District contains 12,014.82 EBU's. The Personnel Budget is the same as FY2001; however, it was underspent in FY2001. The Advisory Committee wanted to fully use the Personnel Budget for increased monitoring of the maintenance contract. To keep a prudent reserve, the Advisory Committee voted to increase the assessments to the maximum allowable, from \$19.82 to \$20.27 per EBU and also use a portion of the CPI-U increase for FY 2002 for a further increase from \$20.27 to \$21.16 per EBU.

**FISCAL IMPACT:**

The City contribution has been adjusted to reflect square footage of the current areas maintained. It is proposed that the City contribute a total of \$22,206 (\$0.12/sq. ft.) from the Gas Tax Fund for the maintenance of 185,054 sq. ft. of medians. This represents the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. All other costs are assessed to the District.

Loveland/McLatchy/SY

FILE LOCATION:            Subitems A, B, C: STRT-M-361-02 (34)

COUNCIL ACTION:            (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-104: Three actions related to Coronado View Maintenance Assessment District.

(#41 South Encanto Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-35) ADOPTED AS RESOLUTION R-295179

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-36) ADOPTED AS RESOLUTION R-295180

Approving the City Engineer's report.

Subitem-C: (R-2002-37) ADOPTED AS RESOLUTION R-295181

Approving the Fiscal Year 2002 Budget for the Coronado View Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for the Coronado View Maintenance Assessment District (District). The District was established in July 1983 to provide maintenance for one acre of landscaped street slope along 60<sup>th</sup> Street between Fulner and Tooley Streets, on the east side of Coronado View housing development. The following FY 2002 proposed budget is based on estimated FY 2002 maintenance costs.

<b><u>DESCRIPTION</u></b>	<b><u>Est. Year End</u></b>	
	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$ 1,275.00	\$ 189.00
<b>REVENUE:</b>		
Assessments	\$ 17,627.00	\$ 18,105.00
<b>EXPENSE:</b>		
Personnel	\$ 4,624.00	\$ 3,392.00
Contractual	6,722.00	7,058.00

Incidental	2,956.00	2,727.00
Utilities	<u>4,411.00</u>	<u>4,296.00</u>
<b>TOTAL EXPENSE</b>	<b>\$ 18,713.00</b>	<b>\$ 17,473.00</b>
<b>ENDING BALANCE</b>	<b>\$ 189.00</b>	<b>\$ 821.00</b>

The proposed assessment for Fiscal Year 2002 is \$156.08 per Equivalent Benefit Unit (EBU). The District contains 116 EBU's. The assessment is an increase of \$3.36 (a 2.2% increase) per EBU from the Fiscal Year 2001 assessment of \$152.72 per EBU. The increase is necessary to cover anticipated FY 2002 costs.

**FISCAL IMPACT:**

All costs are assessed to the District. There is no net Fiscal Impact.

Loveland/McLatchy/SY

FILE LOCATION: Subitems A, B, C: STRT-M-387-02 (34)

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-105: Three actions related to Kings Row Maintenance Assessment District.

(#41 Lincoln Park Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-38) ADOPTED AS RESOLUTION R-295182

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-39) ADOPTED AS RESOLUTION R-295183

Approving the City Engineer's report.

Subitem-C: (R-2002-40) ADOPTED AS RESOLUTION R-295184

Approving the Fiscal Year 2002 Budget for the Kings Row Maintenance  
Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for the Kings Row Maintenance Assessment District (District). The District was established in March 1994 and later expanded in July 2000 to provide maintenance of the landscaping between the noise abatement walls and the street. The maintenance includes turf mowing, irrigation, revegetation, trimming, fertilization and weeding. The landscaping was installed to create a more pleasing and attractive environment. The proposed FY 2002 budget is based on current maintenance costs.

	<b>Est. Year End</b>	
<b><u>DESCRIPTION</u></b>	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$ 4,677.00	\$ 5,032.00
<b>REVENUE:</b>		
Assessments	\$ 5,956.00	\$ 5,956.00
Interest	91.00	91.00
City Contributions	<u>0.00</u>	<u>0.00</u>
<b>TOTAL REVENUE</b>	\$ 6,047.00	\$ 6,047.00
<b>EXPENSE:</b>		
Personnel	\$ 1,982.00	\$ 2,035.00
Contractual	1,200.00	1,260.00
Incidental	1,515.00	945.00
Utilities	<u>995.00</u>	<u>1,005.00</u>
<b>TOTAL EXPENSE</b>	\$ 5,692.00	\$ 5,245.00
 <b>ENDING BALANCE</b>	 \$ 5,032.00	 \$ 5,834.00

The proposed assessment for Zone 1 in Fiscal Year 2002 is \$120.60 per Equivalent Benefit Unit (EBU) with 43 EBUs or \$5,186 for landscape maintenance for the Kings Row development along the west side of Euclid Avenue between the sound wall and the street. The proposed assessment for Zone 2 in Fiscal Year 2002 is currently \$33.48 per Equivalent Benefit Unit (EBU) with 23 EBUs or \$770. When the responsibility for landscape maintenance of the

improvements in Zone 2 (for the Village at Euclid development along the west side of Euclid Avenue and the south side of Ocean View Boulevard between the sound wall and the street) transfers from the developer, then the assessment in Zone 2 will increase. The incidental expense has dropped due to efficiencies in overall maintenance assessment district management. The assessments are the same as Fiscal Year 2001.

**FISCAL IMPACT:**

All costs are assessed to the District. There is no net fiscal impact.

Loveland/McLatchy/SY

FILE LOCATION: Subitems A, B, C: STRT-M-383-02 (34)

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-106: Three actions related to La Jolla Village Drive Maintenance Assessment District.

(#47 University Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2001-1715 Cor. Copy) ADOPTED AS RESOLUTION R-295185

Resolution to suspend the levy and collection of Fiscal Year 2002 assessments.

Subitem-B: (R-2001-1716) ADOPTED AS RESOLUTION R-295186

Approving the City Engineer's report.

Subitem-C: (R-2001-1717) ADOPTED AS RESOLUTION R-295187

Approving the Fiscal Year 2002 Budget for the La Jolla Village Drive  
Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action will suspend the Fiscal Year 2002 assessments for La Jolla Village Drive Maintenance Assessment District (District). The District was established in January 1988 to provide maintenance of 27,308 sq. ft. of landscape medians along La Jolla Village Drive between I-5 and Regents Road. The following Fiscal Year 2002 proposed budget is based on current maintenance costs. The District has accumulated a large reserve over the years due to medians being turned over by developer later than originally scheduled. Staff recommends the property owners be refunded a portion of the reserves by suspending the assessments in FY 2002 while continuing services. Suspension of assessments will be considered annually until the surplus is reduced.

	<b>Est. Year End</b>	
<b><u>DESCRIPTION</u></b>	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$141,425.00	\$142,361.00
<b>REVENUE:</b>		
Assessments	\$ 26,233.00	\$ 0.00
Interest	2,680.00	5,847.00
City Contribution	<u>3,277.00</u>	<u>0</u>
<b>TOTAL REVENUE</b>	\$ 35,357.00	\$ 5,847.00
<b>EXPENSE:</b>		
Personnel	\$ 7,508.00	\$ 7,462.00
Contractual	19,986.00	25,000.00
Incidental	5,168.00	6,231.00
Incidental	<u>1,759.00</u>	<u>2,705.00</u>
<b>TOTAL EXPENSE</b>	\$ 34,421.00	\$ 41,398.00
<b>ENDING BALANCE</b>	\$ 142,361.00	\$ 106,810.00
(Reserve)		

The proposed assessment for Fiscal Year 2002 is \$0.00 per Equivalent Benefit Unit (EBU). The District contains a total of 3,955.33 EBU's. The FY 2001 assessment was \$6.87 per EBU.

**FISCAL IMPACT:**

It is proposed that the City contribute a total of \$3,277. The Gas Tax Fund will contribute \$3,277 for the maintenance of 27,308 sq. ft. of medians (0.12/sq. ft.). This represents the City's share of expenses incurred for maintenance of street medians and open space comparable to similar areas throughout the City.

Loveland/McLatchy/SY

FILE LOCATION: Subitems A, B, C: STRT-M-397-02 (34)

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-107: Grant to Promote Reduction of Greenhouse Gas Emissions.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-111) ADOPTED AS RESOLUTION R-295188

Approving the acceptance of a grant of \$4,500 from the International Council for Local Environmental Initiatives, to implement a program to promote reduction of greenhouse gas emissions;

Authorizing the City Manager to execute an agreement with the International Council for Local Environmental Initiatives (ICLEI) defining ICLEI and City roles in the project;

Authorizing the expenditures of the grant proceeds according to the agreement with ICLEI, and an in-kind contribution equal to \$5,000 from the City's existing budget funds as the City's match.

**CITY MANAGER SUPPORTING INFORMATION:**

This action is requested to approve the acceptance of a \$4,500 grant from the International Council for Local Environmental Initiatives, and authorizing the City Manager to negotiate and execute an agreement with ICLEI defining ICLEI and City roles in the project. The grant will be managed by the City of San Diego, which will take a lead role in implementing the project. The City of San Diego will provide an in-kind contribution of \$5,000.

The primary effort will be to provide information and tools to the private sector within the City of San Diego to help them implement programs reducing greenhouse gas emissions through the San Diego Climate Wise Program, part of the Energy Star program, sponsored by the U.S. Environmental Protection Agency.

The proposed grant will complement the greenhouse gas reduction programs already initiated by the City by: 1) promoting public use of Energy Star products and software tools and 2) highlighting the greenhouse gas reduction activities of companies in the San Diego region.

**FISCAL IMPACT:**

The City will receive a payment of \$4,500. Also, the City will make an in-kind contribution valued at \$5,000 from existing budgeted funds.

Loveland/Hays/TJA

Aud. Cert. 2200054.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-108: FY 2002 California Arts Council State/Local Partnership Program Grant.



**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-93) ADOPTED AS RESOLUTION R-295189

Authorizing the City Manager to apply to the California Arts Council State/Local Partnership Program for a grant in the amount of \$42,927, which funds shall be used by the City's Commission for Arts and Culture during FY 2001-2002 to plan, coordinate and implement programs and services that enhance the cultural life of San Diego;

Authorizing the City Manager to administer any grant funds received from the California Arts Council State/Local Partnership Program for Fiscal Year 2001-2002 to support the Commission's programs, services and administration.

**CITY MANAGER SUPPORTING INFORMATION:**

In 1980, the State Legislation established and funded the State/Local Partnership Program (S/LPP) under the California Arts Council (CAC) to foster cultural development on the local level through a partnership between the California Arts Council and the State's local arts agencies. The nature of this partnership includes arts funding, information exchange, cooperative activities, and leadership to enrich the quality of life for all Californians. The goals of the S/LPP are to encourage local communities to foster the growth of arts resources to meet local needs; to provide access to and to increase awareness of high quality artistic experiences for all Californians; to serve the cultural needs of local communities, including geographically isolated and economically disadvantaged communities; to encourage and promote cultural expression and participation among the diverse and underserved populations of the state based on local planning and the goals of the California Arts Council; to promote cooperation and collaboration among county and city arts agencies in planning, programming and policy development; to increase support for quality artistic activities by supporting the programs, services and arts policy development efforts of California's designated local arts agencies; and to broaden and leverage public and private support for the arts.

The San Diego City Council (City Council), by Resolution No. R-252650, adopted on September 9, 1980, determined to act as an S/LPP partner separate from the County of San Diego and designated the Combined Arts and Educational Council (COMBO) to perform under the S/LPP on its behalf from 1980-1983. In 1984, the City Council changed the designation and identified itself as the local partner.

An annual grant application will be submitted to the California Arts Council State/Local Partnership Program (CAC/SLPP) in the amount of \$42,927. Funds will be used by the City of San Diego Commission for Arts and Culture during Fiscal Year 2001-2002 to plan, coordinate and implement programs and services that enhance the cultural life of San Diego.

**FISCAL IMPACT:**

To receive the \$42,927 in CAC/SLPP grant funds, the City must provide a one to one match. Funding for this match is available as part of the Commission for Arts and Culture's FY 2002 administration and programs budget, contingent upon Council's approval of the Fiscal Year 2002 budget.

Herring/Hamilton/LS

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-109: Settlement of the Property Damage Claim of McClurken Machinery, Inc.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-31) ADOPTED AS RESOLUTION R-295190

A Resolution approved by the City Council in Closed Session on Tuesday, June 26, 2001, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$61,312 in the settlement of each and every claim against the City, its agents and employees, for inverse condemnation, in Claim LP01-7777-3059, McClurken Machinery, Inc.,

(Superior Court Case No. GIC-765366, McClurken Machinery, Inc. v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the total amount of \$61,312 made payable to Client Trust Account of Fisch, Spiegler & Ginsburg, A.P.L.C., in full settlement of all claims in this matter;

Declaring that the settlement is payable as follows: \$61,312 from Fund No. 41509, Department 779, Account 4824, Job Order 196231.

**CITY MANAGER SUPPORTING INFORMATION:**

This constitutes the complete and final settlement of the property damage claim of McClurken Machinery, Inc., against the City of San Diego, its agents and employees, as a result of an incident which occurred on February 16, 2001.

Herring/Oliva/SF

Aud. Cert. 2101308.

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-110: Excused Absence for Councilmember Scott Peters on June 13, 2001 at the NR&C Committee Meeting.

**COUNCILMEMBER PETERS'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-113) ADOPTED AS RESOLUTION R-295191

Excusing Councilmember Scott Peters from attending the regularly scheduled Committee on Natural Resources and Culture meeting of June 13, 2001, due to his testifying before the Water Quality Control Board in Chula Vista on behalf of the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-111: Excusing Councilmember Scott Peters from Attending Council Meetings on July 16 and 17, and the Closed Session Meeting on July 17.

**COUNCILMEMBER PETERS'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-112) ADOPTED AS RESOLUTION R-295192

Excusing Councilmember Scott Peters from attending the following regularly scheduled meetings:

1. Council meetings on July 16 and 17, 2001.
2. Closed Session meeting on July 17, 2001.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-112: Pastor Henry Page Day.

**DEPUTY MAYOR STEVENS'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-28) ADOPTED AS RESOLUTION R-295193

Commending Pastor Henry Page for his dedicated service and proclaiming July 14, 2001 to be "Pastor Henry Page Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-113: John B. Clark, Jr. Day.

**COUNCILMEMBER MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-51) ADOPTED AS RESOLUTION R-295194

Recognizing the many accomplishments and dedication of John B. Clark, Jr. and proclaiming July 23, 2001 to be "John B. Clark, Jr. Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-114: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

**TODAY'S ACTION IS:**

Adoption of the following resolution:

(R-2002-86) ADOPTED AS RESOLUTION R-295195

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L - State of Emergency Regarding the Discharge of Raw Sewage From Tijuana, Mexico

COUNCIL ACTION: (Tape location: B036-059.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: First Public Hearing - Annual Appropriation Ordinance for the Fiscal Year 2001-2002.

**CITY MANAGER'S RECOMMENDATION:**

Hold the first public hearing of the following ordinance:

(O-2002-1) HEARING HELD, WITH AMENDMENTS

First public hearing of an Ordinance adopting the Annual Budget for the Fiscal Year 2001-2002 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year.

**NOTE:** Today's action is the first public hearing. See Item 335 on the docket of Tuesday, July 24, 2001 for the second public hearing and introduction and adoption of the Ordinance.

**FILE LOCATION:** NONE

**COUNCIL ACTION:** (Tape location: C126-186.)

MOTION BY MADAFFER TO APPROVE THE FIRST HEARING AND THE AMENDMENTS TO THE ORDINANCE WITH COUNCIL MEMBER WEAR'S CONDITION AND DIRECTION TO THE CITY MANAGER THAT THE LANGUAGE "SUMMER ONLY" ON PAGE 6 OF 30 OF THE CITY MANAGER'S REPORT BE STRICKEN AND ALLOW THE \$60,000 TO BE USED AT THE CITY MANAGER'S DISCRETION, AND MAKE SURE THAT THE CITY MANAGER HIRES ALL LIFEGUARD POSITIONS IMMEDIATELY. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: Alternate actions related to Referendary Petition (Ban the Ban II) to Repeal Ordinance No. O-18938 (NS).

(See City Clerk Report CCR-01-03.)

**TODAY'S ACTIONS ARE:**

Subitem-A: (R-2002-88) NOTED AND FILED

Adoption of a Resolution granting the referendary petition and declaring the Council's intention to rescind Ordinance O-18938 (NS) pertaining to the Ban on Alcohol Consumption in Beach Areas.

Subitem-B: (O-2002-10) NOTED AND FILED

Introduction of an Ordinance repealing Ordinance No. O-18938 (New Series) titled "An Ordinance Amending Section 56.54 of the San Diego Municipal Code Pertaining to Alcohol Consumption in Beach Areas."

Subitem-C: (R-2002-87) ADOPTED AS RESOLUTION R-295196

Adoption of a Resolution rejecting the referendary petition and directing the City Attorney to prepare an ordinance calling a Special Election to be held on the matter in conjunction with the Municipal Primary Election, which will be held on March 5, 2002.

**NOTE:** In considering this item, Council may act to either accept or reject the referendary petition by:

- 1) Adopting Subitems A and B accepting the referendary petition and rescinding Ordinance O-18938 (New Series);  
  
or
- 2) Adopting Subitem C rejecting the referendary petition and calling for a Special Election.

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FILE LOCATION: Subitems A, C: MEET  
Subitem B: NONE

COUNCIL ACTION: (Tape location: C190-F262.)

Hearing began at 3:47 p.m. and halted at 6:15 p.m.

Testimony in opposition by Jane Gawronski, Karl Jaedtre, Richard Green, Marc Schaefer, J.P. Hegemeyer, Robert Chubinsky, Don Mullen, Julie Doenges, Mike Meyer, and Dan Beeman.

Testimony in favor by Sue Braun, Ray Diccio, Roy Vandergriff, Jovita Hurtado, Philip Sharp, Pat Stebleton, Jean Froning, Al Strohlein, Toma Desson, Catherine Strohlein, Reina Marquez, Vitou Reat, Melvin A. Bibbs, Tom Arena, James DeYoung, John Blecker, Grayle Blecker, Phil White, Ann White, Buz Rahe, Jack Bark, Robert Lasher, Theodora Gentry, Dana Stevens, and Tracy Gamble.

MOTION BY WEAR TO ADOPT THE RESOLUTION IN SUBITEM-C. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-250: Settlement of the Claim Submitted by Westinghouse Process Controls, Inc. in Connection with the Wastewater Operations Management Network (COMNET).

(R-2002-89)

Adopted as Resolution R-295090.

A Resolution approved by the City Council in Closed Session on Tuesday, June 5, 2001, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; District 6-vacant; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$1,150,657 in full settlement of each and every claim against the City, its agents and employees, by Westinghouse Process Controls, Inc. regarding its COMNET claim;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$1,150,657 within Fund No. 41509, from CIP-46-502.0, Clean Water Program Pooled Contingency, to CIP-42-911.4, Metropolitan Biosolids Center, to provide funds for the settlement.

Aud. Cert. 2101314.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

**ITEM-251: SUBMISSION OF BALLOT PROPOSALS**

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who then shall transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the March 5, 2002 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2001	127	LAST DATE (10:00 a.m.) for public to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	9/26/2001	160	Rules Committee Review
Tuesday	10/23/2001	133	LAST DATE for City Manager, department or other public agency to submit ballot proposals to City Clerk for placement on Council Docket
Monday	10/29/2001	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	11/05/2001 through	120 to	Council adopts propositions for ballot; directs City Attorney to prepare
Tuesday	11/20/2001	105	ordinances
Monday	11/26/2001	99	Council adopts ordinances prepared by City Attorney
Friday	12/07/2001	88	Last day for City Clerk to file with Registrar of Voters all election material
Thursday	12/20/2001	75	Last day to file ballot arguments with City Clerk

If you have any questions, please contact the Office of the City Clerk, at 533-4025.

\*ITEM-S400: Amending the Legislative Calendar for 2001 to Cancel the Regular Council Meeting of Monday, July 30, 2001 at 2:00 P.M. and Scheduling the Quarterly Night Meeting of the City Council on Monday, July 30, 2001 at 5:00 P.M. at the Scripps Miramar Ranch Library Center.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-177) ADOPTED AS RESOLUTION R-295197

Scheduling the Quarterly Night Meeting of the City Council on Monday, July 30, 2001, at the Scripps Miramar Ranch Library Center, at 10301 Scripps Lake Drive, starting at 5:00 p.m., pursuant to Rule 1(d) of the Permanent Rules of the Council, San Diego Municipal Code Section 22.0101;

Canceling the regularly scheduled Council meeting of Monday, July 30, 2001 at 2:00 p.m.;

Declaring that the meeting of Monday, July 30, 2001 will be held in conjunction with the regularly scheduled meeting of Tuesday, July 31, 2001 at 9:00 a.m. The public portion of Tuesday's meeting will begin at 10:00 a.m.;

Directing the City Clerk to post and publish, as necessary, the notice of such meeting with the date, time, and location thereof and make the necessary preparations and arrangements.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: B128-173.)

MOTION BY MAIENSCHIEIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S401: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: City-wide Franchise Agreement.

Agency Negotiator: George I. Loveland, Senior Deputy City Manager;  
Patricia Frazier, Deputy City Manager;  
Deborah Berger, Deputy City Attorney.  
Negotiating Parties: San Diego Gas & Electric.

Under Negotiation: Price and Terms.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this issue is listed on the docket only for public testimony.

**There is no Council discussion of this item. The City Council's actions are:**

REFERRED TO CLOSED SESSION ON TUESDAY, JULY 24, 2001

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C187-189.)

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on July 24, 2001.

**NOTE:** Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

Hearing Closed.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:16 p.m. in memory of:

Betty B. Travers as requested by Council Member Maienschein.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: F-283.)